

to talk, there couldn't have been a bipartisan vote to end debate. In fact, some, like my colleagues from North Carolina, didn't have a chance to speak and were still waiting their turn. And because the Democrats don't have a majority in the committee, they couldn't have set a time certain.

Under the rules and precedents of the committee, then, they had to let Republicans talk, and if it took more than one markup, so be it. The Democrats did this talkathon when I was chairman. During our second markup of 2017, in order to delay Senator Sessions' nomination to be Attorney General, Democrats filibustered in the Judiciary Committee. When it happened, I didn't interrupt anyone or break any rules. I simply continued the markup the next day, checking to see who would want to be recognized and for how long.

The fact is that the Democrats frequently used these filibuster tactics against us over the past 4 years. We simply dealt with them from a position of confidence in the rules and precedents of our committee. Sometimes being chairman and moving nominees takes hard work, but we did the job we needed to do.

That is not what happened in the discussion of Gupta. Instead, my colleague from Arkansas was interrupted and the roll was called while he was still speaking.

This was not the power of the majority being used. It was the power of the chairman. What is the point of having rules if you can just ignore them—just ignore them when you find yourself dealing with an unfamiliar situation.

So I don't think the even vote—the tie vote—in committee even properly happened. As far as I am concerned, Senator COTTON had the floor. That rollcall vote was illegitimate under committee rules, and so the one that we are going to have in the Senate this afternoon is just as illegitimate.

And why did the Chairman scrap the committee rules for this nominee? This isn't a Supreme Court nomination. The nominee is a sub-Cabinet official at the Justice Department. So I have to wonder why. I think it is because the Democrats know how really powerful she will be in the Justice Department.

As Judge Garland told us during his hearing, he didn't pick Ms. Gupta. He only got to know her after they were both picked. That is quite a position for a subordinate to be in.

The late Congressman Dingell famously said this—and I will clean it up a bit: "You let me write the precedent, and I'll [beat] . . . you every time."

The Judiciary Committee has done him one better: Now there is no procedure.

If the rules are not respected, the Senate is an institution that loses every time.

I urge my colleagues to vote no and protect the traditions of the body.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I don't know that there is another Republican Senator that I have worked with as much and as effectively and with as much pleasure as Senator CHUCK GRASSLEY of Iowa—and I mean it. We have done some good things together.

We sometimes started off in opposing positions and tried to find some common ground. The First Step Act was a good illustration of that, but it is not the only demonstration, and I trust that there will be more. I am sorry we disagree today.

Two points I will make. Rule 4, as described by Senator GRASSLEY, is virtually, as I mentioned earlier, a doomsday filibuster. There is just no way out of it, particularly with an evenly divided committee. I am not the first to discover that as chairman.

I will make as part of the RECORD, and I am going to share with my colleague from Iowa, the four or five instances when previous Republican chairs of the committee did exactly what I did with this nomination and said: We are moving forward; we are not going to pay attention to rule 4.

Senator GRAHAM, Senator GRASSLEY, and others have done just exactly that in the past. So I think we adopted that as a rule because it was already in the rules, and we were evenly tied in committee. But it sure ties the hands of a chairman or anyone who is trying to accomplish anything if there is one person who just stands and objects and objects and objects. It is a very difficult situation.

The second thing I will mention is—I am going to make this a part of the RECORD, and I don't have it at hand as I stand here—the quote from Merrick Garland in his nomination hearing when someone raised the question about Vanita Gupta and Kristen Clarke, another nominee working her way through the committee. Merrick Garland may not have known either one of them personally beforehand. He could have, but I am not sure. But he made it abundantly clear that this is the team he wanted to manage the Department of Justice—no ifs, ands, or buts about it. He totally committed and believed that each of them brought a perspective in the law and by their own legal experience valuable to him and the Department of Justice and to the Nation. So I don't think there is any question that he is committed to Vanita Gupta, as he should be.

I will yield back at this point.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I am sorry that I missed the incredibly thoughtful comments of the Democratic whip, who I think spoke on the topic—one of the topics—that I am going to speak about.

I think I have 10 minutes. Is that right?

OK. Thank you.

The PRESIDING OFFICER. Clarification: The Senator may use whatever time he needs to.

Mr. WARNER. I thank the Presiding Officer and thank the—I want to thank the brilliant ruling of the Parliamentarian on that subject.

Mr. DURBIN. Excuse me. If I can have a clarification. As I understand it, we are in measured time, 2 hours to a side. Any speakers on our side will be taken from that 2-hour total.

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. Thank you very much.

NOMINATION OF VANITA GUPTA

Mr. WARNER. Mr. President, I want to touch on two critically important subjects that the Senate is considering today. First, I want to rise in support of Vanita Gupta, President Biden's nominee to serve as the Associate Attorney General, the third highest ranking position in our Justice Department.

I think my good friend, the Senator from Illinois, has already spoken about Ms. Gupta. I want to make a personal note. First, that Vanita is a fellow Virginian. I am proud to say that she and her husband, Chinh Le, are raising their two sons in the Commonwealth. They live in Arlington.

Ms. Gupta is also an outstanding public servant. She served from 2014 to 2017 as the Principal Deputy Assistant Attorney General in the Civil Rights Division at DOJ. She led the Division, as the Acting Assistant Attorney General, until 2015.

Since 2017, she has led one of the country's preeminent civil rights organizations—the Leadership Conference for Civil and Human Rights. This means that, if confirmed, Ms. Gupta will be the first civil rights leader in any of the top three positions at Justice.

The sheer depth and breadth of Ms. Gupta's legal and professional experience makes her an outstanding selection to serve as the Associate Attorney General. Perhaps that is why Ms. Gupta's supporters span the political spectrum.

My understanding is that my friend, the Senator from Illinois, has already pointed out some of this broad-based bipartisan support. Let me elaborate on some of that support. Grover Norquist calls her an "honest broker" in his endorsement letter.

Let me just state for the record that I have had interactions with Grover Norquist since before I was Governor, over 20 years, and Grover Norquist has never called me anything close to as nice as he called Vanita Gupta as an "honest broker."

Mark Holden, the former general counsel of Koch Industries, writes: "Ms. Gupta is an exceptional lawyer, and among the most talented lawyers I have worked with in my career."

Ms. Gupta has spent years and years collaborating with people from across the spectrum to promote a more fair and equal justice system.

And let me note for the record, as well, that I have not always agreed with Ms. Gupta. I was very involved in

housing finance reform. Ms. Gupta, as chairman of the Conference on Civil Rights, had a different opinion, but I always respected her intellect and her willingness to listen to alternative views and her willingness to really dig into the facts.

With that background as a civil rights leader in the thick of issues around policing, race, and criminal justice reform, she actually led the investigations of police departments in Ferguson, Chicago, and Baltimore.

At the same time, I have a long list of law enforcement groups that are supporting Ms. Gupta's nomination, including the National Fraternal Order of Police. Again, in terms of the FOP, I think in all my career, one time they endorsed me. Again, her receiving that endorsement is different than myself and perhaps even the Senator from Illinois.

Ms. Gupta has also led broad-ranging and robust enforcement and education efforts to combat hate crimes, including the first-ever prosecutions under the newly enacted Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act.

Under her leadership, the Civil Rights Division trained local and Federal law enforcement throughout the country in recognizing, investigating, and proving hate crimes; in educating communities and engaging them in a process of ensuring public safety; and in encouraging better hate crime reporting and data collection.

I would like to close on one other timely credential. As chairman of the Intelligence Committee, I have meticulously chronicled the corrosive effects of disinformation and foreign interference into our elections—something the Presiding Officer is also a national leader on.

Ms. Gupta has been a leading voice for election integrity, thoughtfully and firmly engaging social media platforms to address disinformation on their platforms, as well as voter suppression, hate, division, and violence.

Among the many important roles the Department of Justice has right now, securing our democracy itself is surely near the top of the list.

Vanita Gupta is a person of extraordinary ability. She has the right experience for this role, and I am honored to support her in her nomination today and hope that later today, we will get broad bipartisan support to move forward that nomination.

COVID-19 HATE CRIMES ACT

Mr. President, this may be a transfer to a second subject, which actually goes a little bit in concert with talking about Vanita Gupta, and that is rising in support of the COVID-19 Hate Crimes Act and the Jabara-Heyer NO HATE Act.

During the COVID-19 pandemic, our Nation has witnessed a surge in racism, xenophobia, and violence against Asian Americans and Pacific Islanders. In fact, between March of last year and February of this year, there were near-

ly 3,800 hate incidents targeting Asian Americans. It should go without saying that these actions have no place in our communities.

To address this spike in anti-Asian rhetoric and hate crimes, we must stand in solidarity with the AAPI community, and we must act against these heinous crimes. The COVID-19 Hate Crimes Act helps address this crisis head-on.

This bill, very simply, requires Attorney General Garland to designate a coordinator within the Department of Justice to expedite, review, and facilitate reporting of COVID-19 related hate crimes. Further, it requires the DOJ to issue guidance to State and local law enforcement, to equip them with the tools needed to deal with the disturbing surge in incidents targeting the AAPI community.

It is tragic but not surprising that hate crimes in America have always been critically underreported. In fact, reports released by the Department of Justice in recent years suggest that the majority of hate crimes are not even reported—not even reported.

Our current patchwork system, paired with inconsistent reporting and resources, guarantees that many instances of hate-related violence and crimes go uncounted. Not only does this mask the true scale of hate incidents across our Nation, it also means that investigative resources and support structures may not be available to victims who need it.

This problem can be exacerbated by cultural and language barriers and made even worse by the pandemic, which has made it more difficult for folks to get connected with reporting mechanisms or useful resources. Fortunately, the COVID-19 Hate Crimes Act seeks to address these challenges by providing a clearinghouse for these cases.

Over the past decade, our Nation has seen a steady rise in hate crimes. Groups and individuals targeting minority and religious groups have increasingly perpetrated sickening acts of violence fueled by hateful ideologies.

We saw that here on January 6. We also saw it earlier in my State, in Virginia. In Charlottesville, back in 2017, we saw this hate and violence on our streets when a White supremacist drove a car through a group of peaceful protesters, injuring many and killing a young woman named Heather Heyer.

It is critical that we give our law enforcement the tools they need to curb these horrific acts. That is why, on a related item, I am also cosponsor of the bipartisan Jabara-Heyer NO HATE Act. My hope is that it will be offered as an amendment to the COVID-19 bill that we hopefully will be addressing shortly.

This bill modernizes our reporting system for hate crimes so that we can respond to accurate data. It also provides grants to establish hate crime hotlines, to record information about hate crimes, and to redirect victims and witnesses to law enforcement and

local support services as needed. Finally, this bill provides a Federal private right of action for hate crime victims and allows judges to sentence community-specific education and community service. Together, these changes create a new model for addressing these crimes and preventing them from going unreported or unpunished.

Both the COVID-19 Hate Crime Act and the Jabara-Heyer NO HATE Act are straightforward pieces of legislation that give victims and law enforcement officers the tools they desperately need to tackle the increasing prevalence of hate incidents in our country. I hope that we move quickly on both these pieces of legislation in major bipartisan fashion.

I yield the floor.

The PRESIDING OFFICER (Mr. KING). The Senator from Arkansas.

NOMINATION OF VANITA GUPTA

Mr. COTTON. Mr. President, Vanita Gupta is President Biden's nominee to be Associate Attorney General. She is unfit for that role. She is unfit because of her radical view that every single American and every single institution in the United States is inherently racist. She is unfit because she lacks the temperament to do the job, as evidenced by her relentless attacks on the integrity and character of judges and Senators alike, seemingly anytime she had a mere disagreement with them. She is certainly unfit based on her attempts to mislead the Senate in her Judiciary Committee hearing.

Ms. Gupta has been before the committee many times as a partisan advocate. There is nothing wrong with that, but her past appearances do give us a glimpse of what she believes when she isn't seeking our votes for confirmation.

Less than a year ago, June of last year, she came before the Senate Judiciary Committee to testify on police reform. When she was asked "Do you believe all Americans are racist?" she replied under oath "Yes, I do." Think about that. The person nominated by Joe Biden to oversee, among other things, the Federal Government's civil rights enforcement says that she believes every single American is racist.

This preposterous idea that anyone and everyone is inherently racist is at the core of the pernicious ideology pushed by the left called "critical race theory." But this position was not an anomaly, a misstatement, or a new position for Mrs. Gupta. In 2005, she published an article in the *Fordham Law Review* on what she called "Critical Race Lawyering." In that article, Ms. Gupta argued that "the rule of law" and "equal justice for all" and "equal protection" aren't the great bulwarks of our liberty, aren't the single achievements of our Republic and our constitutional form of government, but instead "code words"—that is what she called them—for some kind of twisted racism. Anyone who thinks that the rule of law or equal justice for all or